



## **Development of Amendments and Additions to Rules Concerning Pretreatment Streamlining**

LSA Document #06-156

### **Overview**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language concerning amendments and additions to rules 16 through 19 of Title 327 Article 5. These draft rules revise and add several provisions of the general pretreatment regulations that address requirements for, and oversight of, industrial users (IUs) who introduce pollutants into publicly owned treatment works (POTWs). These revisions will reduce the regulatory burden on both IUs and state and POTW control authorities (CAs) without adversely affecting environmental protection. This rulemaking is to be presented to the Water Pollution Control Board (board) on September 10, 2008, for consideration of final adoption.

### **Readoption**

The Water Pollution Control Board final adopted the Pretreatment Streamlining rule at its September 10, 2008 meeting. At the suggestion of the Office of the Attorney General during its review of the Pretreatment Streamlining promulgation packet, IDEM has recalled the rule to correct some technical errors in the rule language.

### **Citations Affected**

This rulemaking amends sections 327 IAC 5-16-5, 327 IAC 5-17-23, 327 IAC 5-17-24, 327 IAC 5-18-2, 327 IAC 5-18-4, 327 IAC 5-18-6, 327 IAC 5-18-10, and 327 IAC 5-19-3 and adds sections 327 IAC 5-16-5.3, 327 IAC 5-16-5.5, 327 IAC 5-17-1.5, and 327 IAC 5-17-2.5.

### **Affected Persons**

Industrial Users (IUs) and the publicly owned treatment works (POTWs) that the IUs discharge into may be affected by this rulemaking.

### **Reason(s) for the Rule**

This rulemaking implements several mandatory provisions of the general pretreatment program as

required by federal regulation. The EPA identified 13 mandatory rule changes and 14 optional provisions.

### **Economic Impact of the Rule**

This rulemaking incorporates by reference 40 CFR 437, an updated federal categorical pretreatment standard relating to the centralized waste treatment point source category. The EPA has identified 13 required rule changes that are more stringent than the previous federal requirements in 40 CFR 403 and therefore are considered required modifications for the state and POTWs. The EPA also identified 14 optional provisions that if adopted would be more streamlined and more efficient than current requirements to be considered for state adoption. There is no anticipated economic impact from this rulemaking as the 13 required rule changes are a requirement from federal regulations, and the 13 selected optional provisions are voluntary.

### **Benefits of the Rule**

This rulemaking will reduce the regulatory burden on IUs and control authorities (CAs) without adversely affecting environmental protection and will allow CAs to better focus oversight resources on IUs with the greatest potential for adversely affecting POTW operations or the environment.

### **Description of the Rulemaking Project**

No workgroup was formed as this rulemaking incorporates 13 required modifications for the state or POTW authorities. The 13 selected optional provisions are voluntary. Further, failure to take state action would result with the EPA being required to over-promulgate Indiana's pretreatment regulations with its own criterion.

### **Scheduled Hearings**

First Public Hearing: July 9, 2008, at the WPCB meeting held at the Indiana Government Center South, Indianapolis, Indiana.

Second Public Hearing: September 10, 2008, at the WPCB meeting held at the Indiana Government Center South, Indianapolis, Indiana.

Readoption: February 11, 2009, at the WPCB meeting held at the Indiana Government Center South, Indianapolis, Indiana.

### **Consideration of Factors Outlined in Indiana Code 13-14-8-4**

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
  - (A) human, plant, animal, or aquatic life; or
  - (B) the reasonable enjoyment of life and property.

### **Consistency with Federal Requirements**

The amendments and additions of these rules are consistent with federal rules.

### **Rulemaking Process**

The first step in the rulemaking process is a first notice posted in the Indiana Register. This includes a discussion of issues and opens a first comment period. The second notice is then posted which contains the comments and the department's responses to comments from the first comment period and the draft rule(s). Notice of the first public hearing on the rule(s) is also posted in the Indiana Register. The Water Pollution Control Board holds the first public meeting/hearing and public comments are heard. The proposed rule, also known as the draft rule as preliminarily adopted, is posted in the Indiana Register after preliminary adoption. If the proposed rule is substantively different from the draft rule, a third written comment period is required. After notice in the Indiana Register, the second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Publisher.

### **IDEM Contact**

Additional information regarding this rulemaking action can be obtained from Lawrence Wu, Rules Development Section, Office of Water Quality, (317) 234-1805. Technical information concerning industrial permit requirements may be obtained from Jay Hanko, State Pretreatment Permits Coordinator, Industrial Permits Section, Office of Water Quality, (317) 233-3555 or (800) 451-6027 (in Indiana), or technical information regarding pretreatment standards may be obtained from Natalie Maupin, State Pretreatment Compliance Coordinator, Compliance Evaluation Section, Office of Water Quality, (317) 232-8729 or (800) 451-6027 (in Indiana).